

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PROJECTS AND TVA
SECTION 26A APPROVALS
GENERAL GUIDANCE
November 2002

Typical Transportation Projects Involving TVA (Section 26a or other)

- Stream culverting and relocation.
- Addition of lanes to highways (requiring culvert extensions).
- New facilities in new locations (which cross or relocate streams).
- Bridge replacement when lanes are added or new bridge is upstream or downstream of existing bridge.
- Projects involving lands owned by TVA.
- Projects involving relocation or modification of TVA transmission lines.

Typical Projects Not Requiring Section 26a approval

- Removal of materials such as trees, tree stumps, brush, or sand and gravel from a streambed is not construction of an obstruction unless the material removed is piled in or along the stream, river, or reservoir in such a way as to create an obstruction.
- Excavation (dredging) of a new channel or enlargement of an existing channel is not construction of an obstruction unless it involves blocking, restricting, or draining the old channel.
- Excavation of a trench for a submarine sewer, telephone, or other utility line, in which the trench is backfilled with the excavated material to the original contour and is located outside the area of a marked navigation channel does not create an obstruction. (26a approval is required for all utilities buried in or under marked navigation channels.)
- Construction on, over, or along temporary, intermittent, seasonal, or wet weather streams or drainages do not constitute obstructions.
- Discharges (other than fills) into the Tennessee River System are not obstructions unless they are made through or by an obstruction (outfall pipe, etc.) subject to TVA approval.
- Replacement of culverts of same or greater hydraulic capacity, creating no new or additional obstruction, and within the same highway alignment are not new obstructions and are to be considered maintenance activity.
- Replacement of bridges of the same or greater hydraulic capacity, creating no new or additional obstruction, and within the same highway alignment are not new obstructions and are to be considered maintenance activity.
- Directional boring under streams or rivers for the installation of utilities or pipelines where no new obstructions are permanently placed within the floodplain.

Typical Interactions During Project Development and Environmental Analysis

- Send scoping notice to NEPA Administration. TVA will reply to scoping notices and indicate that a Section 26a approval is needed, there is other potential TVA involvement in the project, or explain that there is no TVA involvement.
- Include TVA as a member of Section 404 Merger Teams for the Tennessee River Watershed.
- Include TVA NEPA Administration on invitation list for monthly Interagency Coordination meetings.
- Send monthly 13-month let list to NEPA Administration.
- Include TVA as a “cooperating agency” in NEPA and SEPA documents that require TVA permits or land use approvals.
- Send a copy of the preliminary draft of the EA or EIS to TVA NEPA Administration for comment prior to public release and approval. TVA will reply within the specified time frame, generally within three weeks.
- TVA will reply to merger team correspondence and environmental documents with comments during the time frame requested or reply that all the environmental issues are addressed and that it has no comments.
- Send a copy of the publicly released EA or EIS to TVA.
- TVA may comment. If no comments are received during the review period, NCDOT will assume that TVA has no further comments.
- Include TVA in Section 7 Endangered Species Act consultations. Notify TVA if formal consultation is undertaken, including a Biological Assessment and Biological Opinion. This will allow TVA to ensure that the incidental take permit is issued in the name of TVA as well as FHWA.
- Include TVA in consultations under Section 106 of the National Historic Preservation Act. If a Memorandum of Agreement is prepared, provide TVA an opportunity to be a signatory.
- Send a copy of the CE, FONSI, FEIS or ROD to TVA when completed.

Typical Interactions During Permitting

- Send permit requests to TVA at the same time that Section 404/401 permits are requested. A copy of the 404/401 permit application will initiate the TVA Section 26a review process.
- One copy of the permit request is sufficient, unless oversized or difficult-to-reproduce sheets are included. In that case, send 5 copies.
- Permit requests should be sent to both the appropriate Watershed Team office and NEPA Administration (see addresses below). NEPA Administration, in cooperation with the Watershed Team, will determine preliminary TVA level of review.
- Projects determined to qualify for a TVA Categorical Exclusion will be processed by one of four Watershed Team Offices. Projects determined to need a TVA FONSI or ROD will be processed by NEPA Administration.
- The permit will not be issued until a Water Quality Certification is received, and the processes under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act are completed.
- Permits will be issued by the appropriate Watershed Team Office.

Checklist of Items to Include in the TVA Permit Package

- Section 404/401 Clean Water Act Application.
- Proposed wetland and stream mitigation for project.
- Water quality certification or statement that project falls under a Nationwide Permit where certification is not needed.
- CE, EA, FONSI, EIS, and/or ROD documents prepared under SEPA or NEPA covering the proposed transportation improvement.
- Cultural Resource Survey (if not included in environmental document) and correspondence with SHPO and other consulting parties.
- Section 106 Memorandum of Agreement, if any.
- Biological Assessment and Biological Opinion, if any, prepared under the Endangered Species Act.
- Correspondence received from environmental agencies subsequent to preparation of environmental document, if any.
- Copy of preliminary general drawing or plan and profile sheet covering portion of the project in the floodplain.
- Hydraulic design data for structure, including statement of Executive Order 11988 (Floodplain Management) compliance.

Typical Levels of Review for TVA Actions

Section 26a and minor land use actions that can be categorically excluded are processed at one of 12 Resource Stewardship Watershed Team Offices (4 of these cover North Carolina). If a project involves the following, TVA may choose to prepare an Environmental Assessment or Environmental Impact Statement under NEPA prior to permit issuance. In these cases, TVA will review SEPA or FHWA documents to determine if they can be adopted by TVA.

- Formal consultation under the Endangered Species Act, or potentially significant impacts on state-listed species involving special mitigation measures.
- Archaeological or historic site impacts for properties listed on or eligible for the National Register of Historic Places, involving preparation of a project-specific Memorandum of Agreement.
- Extensive wetland mitigation or extensive stream mitigation.
- Controversy over the environmental impacts of the project.
- Lengthy corridor projects involving more than a few Section 26a approvals and/or other federal involvement.
- The action is not “minor” in context or intensity.
- Project has other potentially significant impacts.

TVA actions eligible for a categorical exclusion are verified by the Watershed Team. EA/FONSI documents and EIS/ROD documents are prepared by TVA NEPA Administration.

[TVA: Watershed Teams](#)